



**WOUNDED WARRIOR PROJECT
STATEMENT FOR THE RECORD**

Before the

**UNITED STATES SENATE
COMMITTEE ON VETERANS' AFFAIRS**

With Respect To

“MILITARY TOXIC EXPOSURES: THE HUMAN CONSEQUENCES OF WAR”

March 10, 2021

Chairman Tester, Ranking Member Moran, and distinguished members of the Committee, thank you for the opportunity to submit the following testimony regarding Wounded Warrior Project’s (WWP) efforts to assist veterans who were exposed to toxic substances during military service. Like you, WWP has identified this urgent issue as a top priority, and we are grateful to the Committee for holding today’s hearing.

Wounded Warrior Project’s mission is to connect, serve, and empower our nation’s post-9/11 wounded, ill, and injured veterans, Service members, and their families and caregivers. We are meeting our mission through life-changing programming, public policy advocacy, and partnership with like-minded organizations. Since our founding in 2003, WWP has grown from a small, volunteer-led program to an organization with over 700 employees across the country and overseas. Our programs cover a range of services, including benefits counseling, mental health treatment, physical health and wellness activities, job placement assistance, and social engagement opportunities. These programs, services, and connection points contribute to our organizational impact and inform our testimony.

Just as our nation has a responsibility to provide health care and benefits to veterans who suffer physical and mental injuries in service, we must also meet the needs of those who suffer from illnesses associated with exposure to toxic substances, both on the battlefield and in peacetime. For nearly 20 years, a significant number of post-9/11 veterans have been exposed to contaminants such as burn pits, toxic fragments, radiation, and other hazardous materials found on deployments to countries like Iraq, Afghanistan, Uzbekistan, and elsewhere. Now, far too many of them are experiencing severe, rare, and early-onset conditions, which we strongly suspect are correlated to their exposures. WWP is committed to addressing their toxic wounds with the same urgency which we address the physical and invisible wounds of war.

Our testimony today will focus on the experiences of warriors who were exposed to toxic substances while in service. This includes descriptions of the unique challenges they face when

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trying to access health care and benefits from the Department of Veterans Affairs (VA), while also highlighting how resilient warriors and family member are under trying circumstances. By telling their stories, we hope to illustrate the human consequences of toxic exposures on the warriors we serve.

WWP's views on the impact of toxic exposures on our alumni are also greatly informed by the results of our 2020 Annual Warrior Survey (AWS), now in its eleventh iteration, which is the largest survey of the post-9/11 veteran population with over 28,000 respondents¹.

2020 AWS Data on Toxic Exposure

Results from WWP's 2020 Annual Warrior Survey confirm that those exposed to toxic substances are more likely to struggle with their health. We found that a majority (70.6%) of warriors reported that they were "definitely" exposed to toxic substances or hazardous chemicals during their service, and another 18.1% reported they were "probably" exposed. Warriors who reported exposures were more likely to indicate poor health. Those who answered, "definitely yes" or "probably yes" to whether they were exposed were more likely to rate their health as poor or fair (49.6%) compared to those who indicated "probably no" or "definitely no" (38.8%). Alarmingly, only 16.1% of those "definitely" or "probably" exposed said they had received treatment at VA for their exposure, while another 11.1% reported that they tried to receive treatment but were unsuccessful.

Additional questions were added to our 2020 survey to better understand what toxic substances warriors were exposed to and what conditions they are experiencing as a result. These questions were only asked of warriors who responded that they were "definitely" or "probably" exposed during service. The largest sources of exposure were burn pits (85.7%), sand, dust, and particles (75.5%), occupational hazards such as solvents and asbestos (43.7%), pesticides (30.3%), and depleted uranium (20.3%). The most common symptoms they reported as a result of their exposures included muscle and joint pain (87.5%), sleep disturbances (85.6%), neurological problems (40.4%), chronic fatigue syndrome (35.8%), gastrointestinal disorders (33.3%), and respiratory disorders (21.6%). An additional 4.1% report some form of cancer. Notably, a mere 2.4% of warriors who report being exposed to toxic substances during military service believe that they suffer no symptoms or illnesses as a result².

Warrior Profiles in Toxic Exposure

While our survey data provides an overview of how toxic exposures affect the population we serve, it does not capture the individual challenges that exposed warriors face daily. They struggle with health problems associated with the severe illnesses they have acquired and with policies that often make it difficult for them to access the health care and benefits they desperately need. Their stories have been shared with us by our WWP teammates, who tirelessly advocate on their behalf. We share them in this statement with the goal of putting a face on the human consequences of military toxic exposures.

¹ The 2020 *Annual Warrior Survey* is available for download and review at <https://www.woundedwarriorproject.org/mission/annual-warrior-survey>.

² For a closer review of the variety of exposures and ailments considered in the 2020 *Annual Warrior Survey*, please see Figures 1-2.

The Struggle to Obtain Benefits

One of the most essential programs we offer is our Benefits Service, which assists warriors and their family members in filing claims for VA benefits, completely free of charge. This is accomplished through our network of 54 accredited service officers operating out of 23 offices from coast to coast. In 2020 alone, they assisted warriors in filing service connection claims for over 33,000 conditions, with an average grant rate of over 90 percent, resulting in a total of over \$141 million awarded in disability compensation. Due to their superior training and expertise, WWP service officers ensure that warriors are able to access all the benefits they have earned through their service.

Claims related to toxic exposures, however, often present unique challenges for veterans and service officers alike. Traditionally, VA disability claims are granted by establishing a service-connected disability with a medical nexus linking an in-service event with a veteran's current diagnosis. In the case of toxic exposure-related claims, this is often difficult to achieve due to inconsistent documentation of exposure and long latency periods in which the onset of diseases may not occur until several years after discharge. In response to these hurdles, WWP service officers have begun employing unorthodox methods to gather evidence, such as obtaining the information in the Individual Longitudinal Exposure Record (ILER) and medical opinions from the VA War Related Illness and Injury Center (WRIISC).

The ILER is a web-based application developed between the Department of Defense (DoD) and VA that can assist in determining the linkage between individuals and possible military toxic exposures. ILER can research and cross-reference multiple DoD toxic exposure databases to develop a Service member's exposure history. Previously available only to DoD and VA clinicians and researchers, veterans will soon have access to their own ILER records through a web-based portal, without the need to file a Freedom of Information Act request, thanks to Chairman Tester's amendment to the *FY21 National Defense Authorization Act* (P.L. 116-283 § 9105). WRIISC is a VA post-deployment health resource that provides environmental exposure assessments for veterans that have difficulty to diagnose symptoms related to deployment, as well as conducting education and research. Our service officers have seen some success leveraging ILER reports and WRIISC opinions when working on toxic exposure-related claims.

Such was the case with a warrior who we will call "Steve." Although he is a post-9/11 veteran, most of his service took place prior to 9/11 in the U.S. Navy. During that time, he served on a foreign deployment to the Red Sea, as well as at least two domestic duty stations where he reports he was exposed to various toxic substances. After completing his service in 2003, he was shocked to be diagnosed in 2016 with neuroendocrine tumor cancer (NET) that was confirmed stage 4 in March of that year. NET is a rare form of cancer that can affect any part of the body, and in Steve's case, resulted in malignant tumors in and around his adrenal glands. In 2019 he filed a claim for VA disability compensation, asserting that his cancer was caused by military toxic exposures. VA promptly denied the claim without seeking a medical opinion because he did not have a diagnosis of NET in service.

Steve appealed the decision and at this point began working with a WWP service officer who was fortunate enough to obtain his ILER report, confirming exposure to various toxic chemicals to include Benzene, Ethylbenzene, M-Xylene, Naphthalene, O-Xylene, P-Xylene, Toluene, Vanadium, Iron, J-5 Jet Fuel, and J-8 Jet Fuel. We were also able to confirm that the domestic duty stations where he served were listed as Superfund sites by the Environmental Protection Agency. With this information in hand, Steve's WWP service officer requested a WRIISC opinion as to whether his cancer was as least as likely as not caused by his military toxic exposures. Remarkably, WRIISC was willing to assist with this opinion and provided a positive nexus for his case. As a result, WWP anticipates a positive outcome for Steve due to the now-overwhelming evidence that supports his claim. However, without the ILER report or WRIISC opinion, we fear the chance of success would have been little-to-none.

Further examples of these issues can be found in the case of a warrior who we will call "Jeff." Serving in the U.S. Army and National Guard for more than 20 years, Jeff deployed to Fallujah, Iraq in 2004. As an Army Sapper disarming improvised explosive devices, Jeff's job involved countless hazardous missions. He told us of nights he spent finding it difficult to breathe while overseas and how he always seemed to be covered with dust that would never stop collecting on his person. When Jeff left the Army 10 years ago, he did not know that a rare and aggressive leukemia that most commonly occurs in young children and carries a high mortality rate was taking root inside his body.

When our WWP service officer first met Jeff in 2016, he was a physically fit 49-year-old man who liked to run and did not smoke or drink. Two years later, his cancer led to the annihilation of his immune system. His recent urinalysis showed levels of heavy metals that exceeded three times the upper expected limit of what would be considered normal. Yet, despite the fact that he has produced every piece of evidence asked of him, we have been unsuccessful in obtaining a medical opinion supporting the causality between his toxic exposure and his leukemia. So far, Jeff has had four VA compensation and pension examiners weigh in on this issue. While one provider asserted that a relationship exists, the other three disagreed. They used the same reason we commonly see in unfavorable VA medical opinions, "A strong association is not proof of causation." VA did not concede toxic exposure; thus, VA examiners will not speculate on the connection of leukemia to service. WWP has filed an appeal on Jeff's behalf, but this takes time he may not have.

Lifelong Support

By no means does WWP's advocacy for warriors end with a VA disability decision. Through a dozen different WWP programs and services, we help meet the needs of wounded, ill, and injured warriors at every phase of their lives with the support that is appropriate to their unique situations. Two programs that are critical to this approach are our Independence (IP) and Complex Case Coordination (C3) programs. Our IP team provides the most severely wounded, ill, and injured warriors with the resources they need to thrive in the most independent and meaningful way possible. Our C3 team provides rapid, coordinated responses for warriors dealing with complex, urgent issues that require immediate intervention. Those two teams shared the following stories with us.

A warrior who we will call “Sarah” served as a logistics officer and quartermaster in the Army National Guard. While deployed to Iraq, she suffered exposure to neurotoxins emitted by open-air burn pits. In 2006 after returning home, she was diagnosed with multiple sclerosis, which she understandably believes was caused by burn pit exposure. While this is a serious and debilitating illness, she was fortunate that it was diagnosed while she was still in service. Consequently, her disability is recognized by VA as service-connected and she was retired from the National Guard in 2008. Since then, our IP team has been working with her to help maximize her independence.

Today, Sarah uses a power chair to get around and has limited use of her hands. She is able to live independently but requires a home health aide (HHA) to maintain her home. When her HHA recently quit, her IP case manager began working with her to secure another HHA agency and speaks with her regularly to help connect her with community resources. Our IP program was also able to fund smart technology in her home to include smart lights, door locks, a thermostat, and a virtual voice assistant to support her independence. Sarah is highly engaged with WWP virtual alumni events and looks forward to attending face-to-face adaptive sports and physical health and wellness events once they are available again in her area.

Another story is that of a mother who we will call “Lynda,” a widow of a retired veteran who also had two sons, one of which had recently separated from military service who we will call “John.” John, a post-9/11 veteran himself, developed an aggressive form of leukemia and was terminally ill by the age of 24. He was in hospice in Texas but without VA compensation and the family having a limited income, Lynda was unable to travel with her other son to Texas (TX) from Maine (ME) to spend the last days of John’s life with him. As the widow of a retiree, Lynda tried to utilize the military Space A program but was not eligible. Without knowing where to turn, an Air Force official approached WWP to see how we could help.

After coordinating with Rep. Jared Golden’s district staff, we were able to leverage both WWP’s C3 team as well as utilize our Emergency Financial Assistance program to assist. The C3 team connected with Lynda to provide aid and comfort. They secured flights for Lynda and John’s brother so that they could fly from ME to TX. While in TX, we arranged hotel accommodations for the family and ensured they were able to stay until the passing of John. It was our honor and privilege to assist in providing this last gathering between mother and dying son at no cost to them. While it is unclear why such a young veteran would have such an aggressive form of cancer, it illustrates the trend of young veterans developing rare illnesses after separation from service.

Finally, we would like to tell the story of a warrior named Scott Evans. He asked that we use his real name as he feels it will make his story even more impactful. Scott deployed twice to Afghanistan as a Marine Corps combat engineer and as a dog handler. He served valiantly in the battle of Marjah. Unfortunately, he also suffered exposure to open-air burn pits during his deployments. After being honorably discharged from the Marine Corps in 2012, Scott immediately began working a full-time civilian job. Like many hard-charging veterans, since he felt that he suffered no significant disabilities from his service, he never enrolled in VA medical care.

Sadly, in the Spring of 2020, at the age of 32, Scott started experiencing severe abdominal pain and rapid weight loss. At that point, when he attempted to enroll for care at his local VA Medical Center (VAMC), he learned that he was ineligible since he never filed a disability claim and he was beyond the 5-year enhanced eligibility period for combat veterans. Furthermore, his income as a restaurant systems manager precluded him from enrollment based on financial need.

In July of 2020, a friend who had served with Scott reached out to WWP to see if we could help. By this time, Scott had incurred about \$20,000 in medical bills seeking a diagnosis and treatment for his condition. Immediately, our C3 teammate met with Scott and his wife to assess the situation and determine what resources would be needed. It was obvious that Scott was critically ill.

Our C3 teammate convinced Scott to return with him to the VAMC. Upon arrival, the emergency room doctors immediately recognized the seriousness of the situation but needed Scott to visit the eligibility office before they could provide further care. Eligibility told him once again that he was ineligible to receive care until he was service connected. After Scott and his wife left the room, our C3 teammate returned to the clerk and told him that Scott was an uninsured, terminal cancer patient with multiple combat tours and an honorable discharge. He reiterated that WWP's Benefits Team was filing expedited claims on his behalf for several service-connected conditions but that he needed life-preserving treatment now. The clerk relented after looking further at Scott's combat service record, and he was enrolled at VA.

Since his enrollment, Scott has received compassionate life-prolonging care at the VAMC for his illness, eventually diagnosed as terminal pancreatic cancer. Even though it hurts to walk, when Scott is receiving treatment, he travels around the hospital visiting with veterans in other wards and has quickly become a favorite patient of the doctors and nurses. Scott has since been granted service connection for disabilities unrelated to toxic exposure, but WWP is grateful that our C3 teammate was able to obtain care for him as early as possible with his unwavering advocacy. Sadly, a veteran without such an advocate may have been turned away.

Each of these warriors, although dealing with tremendous adversity, is also inspiring in their perseverance. They hope that by sharing their stories, we can provide a snapshot of the challenges facing veterans with toxic exposure-related illnesses and demonstrate the urgency of this issue.

Policy Recommendations

Motivated by the stories of warriors like these, our data, and the shared priorities of other advocates, WWP spearheaded the formation of the Toxic Exposure in the American Military (TEAM) Coalition. Currently comprised of over 30 military and veteran service organizations and experts, the TEAM Coalition is collectively dedicated to raising awareness, promoting research, and advocating for legislation to address the impact of toxic exposures on all those who have been made ill as the result of their military service, now and in the future.

After nearly two years of collaboration and consensus-building, the TEAM Coalition successfully advocated for the introduction of the *TEAM Act*. This comprehensive bill would provide VA health care eligibility for all veterans exposed to toxic substances and create a framework for establishing presumptive disabilities for all toxic exposures irrespective of era or location of service, among other provisions. First introduced in July 2020 as S. 4393 (116th Congress), the *TEAM Act* was advanced unanimously by the Senate Committee on Veterans' Affairs in December 2020 after undergoing a bipartisan amendment process which we believe made the legislation stronger. WWP and the TEAM Coalition fully supported the amended version of S. 4393, and we look forward to its reintroduction and passage this year.

Prioritize the Extension of Health Care

Traditionally, eligibility for VA health care is established when a veteran is granted one or more service-connected disabilities. For reasons already discussed, this is often an exceedingly difficult task when dealing with toxic-exposure related conditions. According to VA data, from June 2007 to July 2020, only 2,828 of the 12,582 (22%) veterans who claimed conditions related to burn pit exposure were granted service connection³. One critical consequence of these decisions is delayed access to VA care. WWP strongly believes that VA health care enrollment eligibility should be granted to any veteran who suffered toxic exposures while in service, regardless of their service-connected disability claim status.

Our call for expedited health care access is not unprecedented. Legislation enacted over the course of several decades has provided health care eligibility to previous generations of veterans with toxic exposure concerns. Veterans who served in the Republic of Vietnam between January 9, 1962, and May 7, 1975, and the Persian Gulf War between August 2, 1990, and November 11, 1998, are eligible for priority group 6 VA health care enrollment without the need to establish a service-connected disability.⁴ Currently, veterans who served in combat and were discharged after January 28, 2003, are eligible for enrollment on a similar basis, but only for a period of five years. As in Scott's case, we know that this access does not go far enough. We can achieve parity for post-9/11 veterans who served in areas of known exposure by granting them permanent Priority Group 6 enrollment eligibility. We believe this is critically important, as it would prevent veterans like Scott who are seriously ill from having to wait until their claims are decided to access the care they need – a process that can take months or even years if the claim goes to appeal. Furthermore, we believe that veterans who were exposed to toxic substances but may not be ill should have access to regular preventative care so that any illnesses that may arise can be diagnosed and treated early before they become serious or even life-threatening.

For these reasons, access to care is WWP's top priority regarding toxic exposure legislation. To achieve this, the *TEAM Act*, as amended, would expand priority group 6 health care enrollment eligibility to any veteran who earned certain medals associated with post-9/11 deployments or is eligible for inclusion in the Airborne Hazards and Open Burn Pit Registry.

³ *Toxic Exposures: Examining Airborne Hazards in the Southwest Asia Theater of Military Operations: Hearing Before the Subcomm. on Disability Assistance and Memorial Affairs of the H. Comm. on Vet. Affairs*, 116th Cong., (2020) (testimony of Laurine Carson), available at <https://docs.house.gov/meetings/VR/VR09/20200923/111024/HHRG-116-VR09-Wstate-CarsonL-20200923.pdf>.

⁴ *VA Priority Groups*, Department of Veterans Affairs, available at <https://www.va.gov/health-care/eligibility/priority-groups/>

This bill would also grant eligibility to any veteran who DoD identifies as having been possibly exposed to a toxic substance inside or outside the United States (and establish a mechanism that would allow veterans to self-identify as having been exposed). WWP strongly supports these provisions and believes their enactment would provide lifesaving treatment and preventative care to all those who were exposed to toxic substances, now and in the future.

Adopt a Framework to Establish Presumptive Disabilities for All Toxic Exposures

Recognizing the challenges associated with establishing direct service connection for toxic exposure-related conditions, Congress has historically created mechanisms that require VA to make determinations on whether to establish presumptive service connection when scientific data show a link between specific exposures and associated illnesses, as it did for Vietnam veterans with the *Agent Orange Act of 1991* (P.L. 102-4). However, no law currently exists to require VA determinations on illnesses associated with all toxic exposures, regardless of location or period of service.

The *TEAM Act*, as amended, would require a framework for establishing presumptive conditions for veterans exposed to toxic substances now and in the future. This would include the establishment of an independent Toxic Exposure Review Commission comprised of scientists, health care professionals, and veteran service organizations (VSOs). This commission would collect information and hold public meetings to identify all possible military toxic exposures and make recommendations to VA on whether scientific reviews are warranted. VA would concurrently enter into an agreement with the National Academies of Science, Engineering, and Medicine (NASEM) to conduct scientific reviews regarding associations between diseases and military toxic exposures based on the recommendations of the commission. Upon receiving a report from NASEM, VA would be required to respond within an established timeframe and the Secretary would be authorized to grant presumptive service connection for diseases by reason of having a positive association with exposure to a toxic substance. If VA declines to do so, they must publish their scientific reasoning in the Federal Register for public comment.

Recognizing that scientific research takes time and far too many veterans are already suffering from toxic exposure-related illnesses, we urge the establishment of this framework without delay. While WWP has and will continue to support legislation that creates presumptive conditions by statute in cases where VA has failed to act, we believe that all veterans who have been exposed to toxic substances deserve a system that requires VA to respond to scientific data in a timely, transparent manner.

Improve Direct Service Connection for Toxic Exposures

As Congress and the scientific community continue to consider a way forward for presumptive service connection, WWP believes direct service connection for toxic exposure-related illnesses can also be improved in a number of ways. One of the hurdles that many ill veterans find impossible to overcome is proving exposure to a specific toxic substance while in service. Given that this information often does not exist, we believe it is unreasonable that veterans like Jeff should have their claims denied on this basis. The *Veterans Burn Pits*

Exposure Recognition Act, recently reintroduced as S. 437, would solve this problem by conceding exposure to burn pits and other toxic substances currently accepted by the VA adjudication manual for any veteran who served in locations recognized by the VA Airborne Hazards and Open Burn Pit Registry. It would also require VA to request a medical opinion on the link between illness and exposure when the evidence alone is insufficient to grant the claim. WWP supports this legislation and looks forward to working with the Committee and our VSO partners to secure its passage.

Another way we believe claims for direct service connection can be improved is by clarifying the use of ILER. We have identified that one challenge veterans face when filing claims for toxic exposure-related illnesses is in the development of evidence during the adjudication process. Although ILER exists as a tool to assist with a veteran's claim, and veterans like Steve have been able to benefit from it in isolated cases, VA is not required to use it. For this reason, we urge VA to consider adding development provisions and information on the ILER report to its Adjudication Procedures Manual. We note, however, that there are gaps and inconsistencies in ILER data, and a lack of information in ILER should never be used as a reason to deny a veteran's claim.

Finally, we recommend that VA regional offices become familiar with and consider soliciting medical opinions or evidence in support of veterans' claims from the WRIISC. As we saw in Steve's case, the information contained in ILER and medical opinions from WRIISC clinicians can be critical in fully developing a toxic exposure claim. Furthermore, in the rare instances where WRIISC opinions are already included in a veteran's claim, we believe that VA claims adjudicators should be instructed to place a heavy weight on these expert opinions.

Chairman Tester, Ranking Member Moran, and Members of the Committee, this concludes our statement. Once again, WWP would like to thank you for holding this hearing on the human consequences of military toxic exposures. Like you, we consider this issue to be among our highest priorities, and we look forward to working closely with the Committee to confront this urgent issue in the 117th Congress.

Figure 1: Sources of Environmental Hazards Exposure Among Warriors Indicating Toxic Exposure

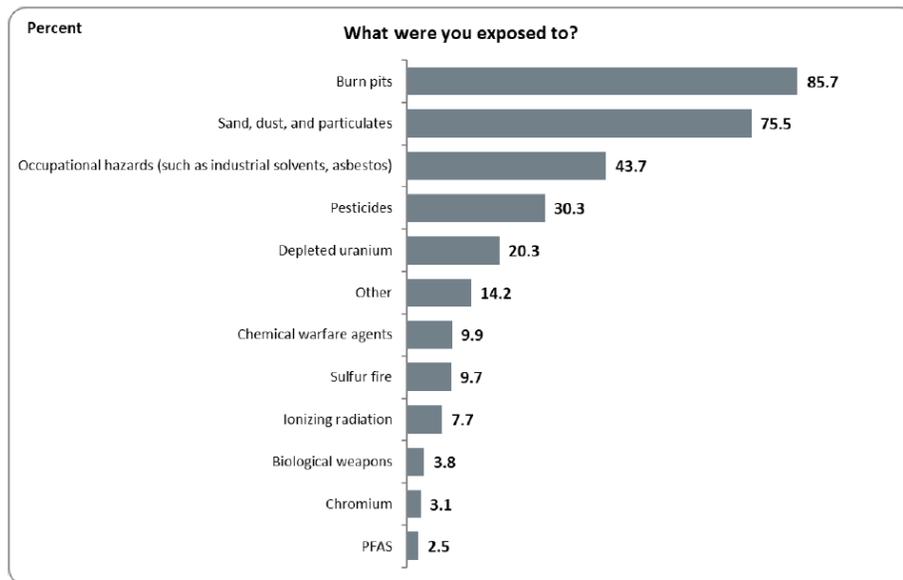


Figure 2: Symptoms and Illnesses Experienced from Environmental Hazards Exposure Among Warriors Indicating Toxic Exposure

